

PERKINS COIE LLP

607 FOURTEENTH STREET, N.W. WASHINGTON, D.C. 20005-2011
TELEPHONE 202 628-6600 FACSIMILE 202 434-1690

March 20, 1998

Lawrence Noble, Esq.
Federal Election Commission
6th Floor
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 4710

Dear Mr. Noble:

This letter constitutes the response of The Honorable Rubén Hinojosa and the Hinojosa for Congress Committee ("Committee") to the complaint filed by Tom Haughey.

Mr. Haughey, who is now making his fourth run for the Congressional seat held by Congressman Hinojosa, complains this time about a fundraising event held by the Committee on January 9, 1998 featuring President Clinton.¹ He seems to make two allegations -- that the Committee received foreign contributions in violation of 2 U.S.C. § 441e (1998), and that it received illegal corporate contributions in violation of 2 U.S.C. § 441b.

The facts demonstrate that neither of Mr. Haughey's claims are true. Moreover, the nature of his charges, which rely to a great extent on anonymous sources and hearsay gathered from within his own partisan circles, suggests that the complaint arises solely from political animus. The complaint should be dismissed.

A. Foreign National Contributions

Mr. Haughey first charges that foreign nationals purchased tickets to the January 9 event and thus contributed to the Committee. The sole source of this allegation is the hearsay statement of two foreign nationals whom he declines to identify, relayed to him by a local Republican activist. To lend his charge

¹ This is not the first time Mr. Haughey has filed a complaint against Congressman Hinojosa. Presently before the Commission is MUR 4625, which Mr. Haughey initiated last year.

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verisimilitude, Mr. Haughey adds that the event "was held within ten miles within the Mexican border." If this remark is to be taken seriously at all, it would tend also to cast a shadow on much of Mr. Haughey's own political activity in the South Texas district which he perennially seeks to represent.

The Act indeed bars the making, solicitation, acceptance or receipt of foreign national contributions. 2 U.S.C. § 441e(a). Its requirements of a political committee in this regard are clear. When a contribution is first received, a treasurer must examine it for evidence of illegality. 11 C.F.R. § 103.3(b) (1997). If a campaign deposits a check that presents genuine questions as to whether it was made by a foreign national, the treasurer must make "best efforts" to determine the contribution's legality, including at least one written or oral request for evidence. § 103.3(b)(1). If a contribution raises no such questions at the time of its receipt, but is later revealed to have been illegal by new evidence previously unavailable to the treasurer, the treasurer must refund the contribution within thirty days of having discovered the illegality. § 103.3(b)(2).

The Committee consistently adhered to these procedures. In fact, the Committee went beyond the Act's requirements, collecting Social Security numbers and birth dates from each of the event's donors. The invitation, a copy of which is attached, stated explicitly that "contributions from non-U.S. citizens are prohibited." (Attachment A.)

These additional measures were prompted not only by the Committee's conscientious effort to comply with the Act, but also by the President's attendance at the event. Controversies surrounding foreign national contributions during the 1996 election had prompted the White House and the Democratic National Committee to impose rigid procedures on campaigns seeking to benefit from some Presidential appearances, in order to ensure that no improper contributions were made. Believing that these procedures applied to this event, the Committee adhered to them.

At no time did the Committee have reason to believe that it received any foreign national contributions. While the complaint itself gave the Committee no useful information with which to determine who might have made such a contribution, and while the Committee was not required by the Act to take any additional measures, the Committee chose to review thoroughly all of its records from the event. The Committee looked at each contribution, and matched the contributor's check with the

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accompanying reply card. On one or two occasions, it contacted donors to verify their citizenship status. The Committee's review produced no information to suggest that it had received any impermissible contribution.

The Committee's stringent screening procedures, its thorough review of the contributions from the January 9 event, and the spurious nature of the charges demonstrate that there is no reason to believe that the Committee received foreign national contributions in violation of the Act.

B. Corporate Contributions

The complaint next contends that the Committee received illegal corporate contributions from a construction company run by Alonso Cantu, who hosted the January 9 event with his wife at their home. This charge is likewise without merit.

The allegation rests solely on one telephone call which Mr. Haughey claims to have orchestrated from one of his campaign volunteers to Mr. Cantu and Mr. Cantu's secretary, in which the volunteer supposedly asked to purchase tickets to the event. As an initial matter, the Committee has no reason to believe that the telephone call occurred at all in the manner described by the complaint, or that Mr. Cantu has ever directed his employees to engage in any political activity.

However, even if the call had taken place as the complaint describes, there remains no reason to believe that a violation of the Act occurred. While the Act bars corporations from contributing to a campaign, and from facilitating the making of contributions, individuals such as Mr. Cantu may make occasional, isolated or incidental use of corporate facilities for their own volunteer activities. 11 C.F.R. § 114.9(a)(1).

The Commission has also acknowledged the realities of a corporate office environment in which secretaries frequently field a wide variety of non-work-related phone calls, correspondence and e-mail for their superiors. Accordingly, it has found that there are circumstances in which a secretary may serve as a conduit of fundraising information to a superior without a violation of the Act occurring. In Advisory Opinion 1995-33, the Commission found that corporate secretaries could receive e-mail intended for their superiors that contained solicitations to a restricted class, so long as the solicitation was intended for the executive only, and the secretary was

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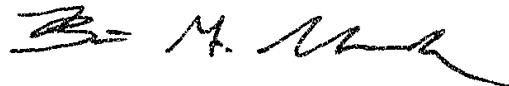
simply performing the usual and normal function of routing such communications to the supervisor.

Thus, even if true, the complaint's allegations present no violation of the Act. They offer no reason to believe that Mr. Cantu exceeded the limits of the incidental use provision. Nor do they demonstrate that Mr. Cantu's secretary did anything beyond her usual and normal work-related function of taking a telephone call for her superior and patching it through to him. Because there is nothing to corroborate Mr. Haughey's allegations, and because they present no violation of the Act, there is no reason to believe that the Committee illegally received corporate contributions.

The partisan animus that drives this complaint is perhaps best reflected by the complaint's conclusion. Mr. Haughey asks the Commission "to impound the money raised at the event." He also asks the Commission to take some sort of action with regard to "the charter cost of Air Force One," an issue discussed nowhere else in the complaint. Finally, he succumbs to the irresistible urge to bring President Clinton into his self-styled conspiracy, asking how the President "could have been unaware" of charges that seem known only to Mr. Haughey and his Republican friends.

This is the second complaint filed in less than a year by a perennial opponent of Congressman Hinojosa. Like the first one, it is comprised of spurious accusations, is contradicted by the evidence, and in every respect fails to demonstrate any reason to believe that the Committee violated the Act. The Commission should dismiss it and take no further action.

Very truly yours,



Brian G. Svoboda

Attachment

Rubén Hinojosa for Congress
214 North 16th St.
McAllen, Texas 78505

No 043

Rubén Hinojosa for Congress
214 North 16th St
McAllen, Texas 78505

2004-04-06 14:00:00

Please join
Congressman Rubén Hinojosa
for a Brunch
with Special Guest

President William Jefferson Clinton

Friday, the ninth of January
nineteen hundred and ninety-eight
Ten-thirty in the morning
at the home of
Alonzo and Yolanda Cantu
5400 North Cynthia Street
McAllen, Texas

R.S.V.P. by January 2, 1998

Tel. (956) 686-6455 Fax (956) 682-3103

Response Form

N^o 043

Yes, I will join President Clinton and Congressman Hinojosa on January 9, 1998. Please make my reservation for _____ people at \$1,000 per guest. Enclosed is my contribution of _____

No, I will not be able to attend the luncheon, but enclosed is a contribution for the Congressman's Campaign.

Federal law and White House procedure requires contributors to list their occupation, employer and mailing address. Please fill in the following information:

Name: _____

Address: _____

City/State/Zip: _____

Phone (O): _____ (H): _____

Employer: _____ Occupation: _____

If you are attending the event, Presidential security requires the following additional information not later than January 2, 1998, by 4:00 p.m., no exceptions.

Social Security Number: _____ Date of Birth: _____

Yes, I agree to arrive at the Brunch not later than 10:00 a.m. with photo identification.

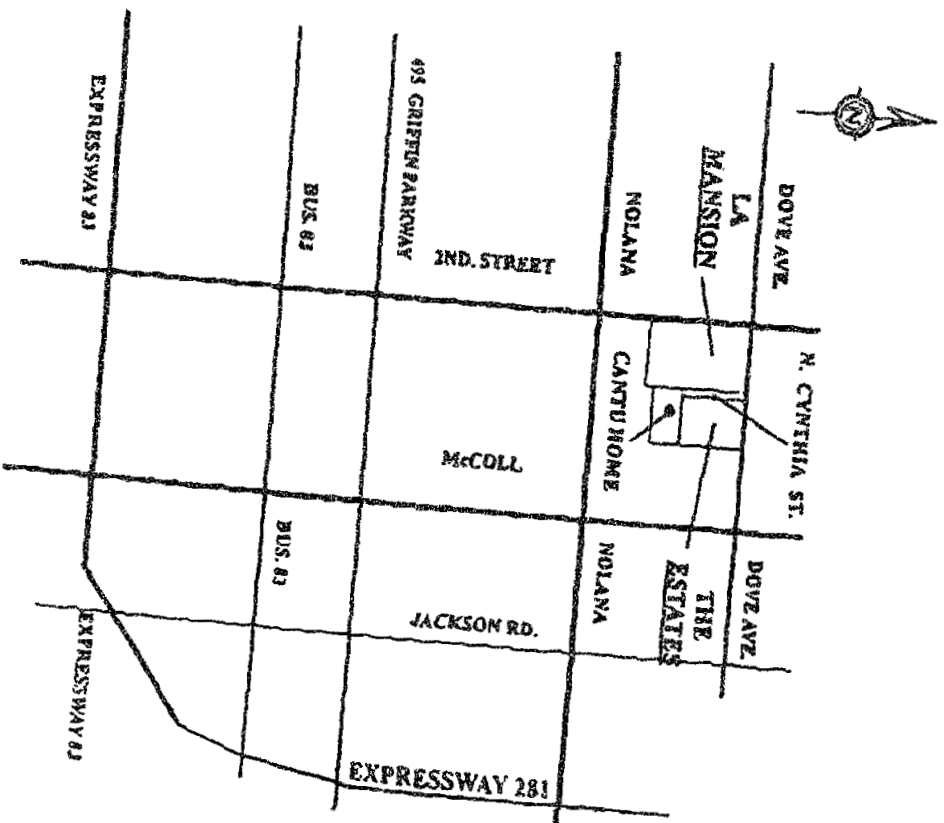
Contributed Contribution - \$1,000

Contributions are not tax-deductible for federal income tax purposes. Corporate contributions are prohibited. Contributions from individuals under the age of 17, and contributions from non-U.S. citizens are prohibited. PAC checks will be accepted.

Make checks payable to: Ruben Hinojosa for Congress

214 North 16th St.
McAllen, Texas 78505

Authorized and paid for by the Ruben Hinojosa for Congress Committee, Treasurer Ray Isaacs, FEC ID No C00107994



Yes, I agree to arrive at the Brunch not later than 10:00 a.m. with photo identification.